IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

SUIT NO.2556 OF 1987

Radheshyam Goel ..Plaintiff.
Vs.
Mahanagar Telephone Nigam Ltd. ..Defendant.
...
Mrs. Neena Madhusudan i/b M/s. Eastley Lam & Co. for the Plaintiff.
Mrs. S.I. Shah for the Defendant.
...

CORAM: DR. D.Y. CHANDRACHUD, J.

24th August, 2006.

P.C. :

1. The Plaintiff has raised a dispute in respect of three bills respectively dated 1st March, 1987, 1st May, 1987 and 1st July, 1987 issued by Mahanagar Telephone Nigam Limited who are Defendants to the suit. The dispute raised in the suit clearly falls within the purview of Section 7-B of the Indian Telegraphs Act, 1885 and can therefore, be determined by arbitration. Counsel appearing for the Defendant has drawn the attention of the Court to orders passed by the Division Bench on 20th January, 2000 in Writ Petitions 134 of 1990 and 145 of 1990 wherein having regard to the judgment of the Supreme Court in **Telecom District Manager,**

Goa v. V.S. Dempo[1], a statement was made on behalf of MTNL that the dispute be referred to arbitration. A similar statement has been made on behalf of the Defendant in this case to the effect that a reference would be made to arbitration under Section 7-B of the Indian Telegraphs Act, 1885. In that view of the matter, this suit can be disposed of in terms of the statement which has been made on behalf of the Defendant.

2. During the pendency of these proceedings an amount of Rs.30,000/- was directed to be deposited on 3rd September, 1987 and a further amount of Rs.10,000/- was directed to be deposited by an order dated 8th October, 1987. On 19th January, 1984 Notice of Motion 2218 of 1987 was permitted to be withdrawn and the interim relief was vacated. However, there was a direction to the effect that the amount deposited by the Plaintiff be paid to the Defendant without prejudice to the rights and contentions of the parties in the suit. In the event that the amount has not already been withdrawn by the Defendant, the Defendant is permitted to withdraw the amount that was deposited before this Court in pursuance of the interim directions as noted above. This shall,

1 AIR 1996 SC 1545.

however, be subject to the final result of the arbitral proceedings. Under Section 7-B the Arbitrator has to be appointed by the Central Government. Counsel appearing on behalf of the Defendant states that in compliance with the directions issued by this Court in the aforesaid terms, the Defendant will move the Central Government for the appointment of an arbitrator under Section 7-B of the Indian Telegraphs Act, 1885 within a period of four weeks from today. The suit is accordingly disposed of.